



## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2021-0289; FRL-10024-34-OAR]

### Notice of Data Availability Relevant to Petition Submissions under the American Innovation and Manufacturing Act of 2020

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of data availability.

**SUMMARY:** This Notice of Data Availability is to alert stakeholders of petitions submitted to the Environmental Protection Agency under subsection (i) of the American Innovation and Manufacturing Act of 2020, and to provide notice of a new docket where these petitions and others submitted under subsection (i) will be made publicly available. The docket will provide the public the opportunity to view petitions submitted under this subsection and to submit any supplemental relevant data to the petitions. The Agency may consider relevant information submitted to the docket in its determinations of whether to grant or deny subsection (i) petitions.

**DATES:** The Environmental Protection Agency (EPA) is interested in receiving comments on the data in this notice of data availability (NODA) to inform the Agency's regulatory process. To ensure that your supplemental data may be considered in upcoming EPA determinations regarding petitions received on April 13, 2021, please submit information to the Agency by **[INSERT DATE 14 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may send data identified by Docket ID No. **EPA-HQ-OAR-2021-0289**, by any of the following methods:

- Federal eRulemaking Portal: <https://www.regulations.gov/> (our preferred method).  
Follow the online instructions for submitting comments.
- Mail: U.S. Environmental Protection Agency, EPA Docket Center, Air and Radiation Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- Hand Delivery or Courier (by scheduled appointment only): EPA Docket Center, WJC

West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, DC 20004.

The Docket Center's hours of operations are 8:30 a.m. – 4:30 p.m., Monday – Friday (except Federal Holidays).

*Instructions:* All submissions received must include the Docket ID No. for this notice. Data received may be posted without change to <https://www.regulations.gov/>, including any personal information provided. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID-19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit data via <https://www.regulations.gov/> or email, as there may be a delay in processing mail and faxes. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Joshua Shodeinde, U.S. Environmental Protection Agency, Stratospheric Protection Division, telephone number: 202-564-7037; or email address: [shodeinde.joshua@epa.gov](mailto:shodeinde.joshua@epa.gov). You may also visit EPA's website at <https://www.epa.gov/climate-hfcs-reduction> for further information.

## **SUPPLEMENTARY INFORMATION:**

### **I. What should I consider as I prepare my submissions?**

You may find the following suggestions helpful for preparing supplemental information: Explain your views as clearly as possible; describe any assumptions that you used; provide any technical information or data you used that support your views; provide specific examples to illustrate your concerns; offer alternatives; and make sure to submit your data by the deadline specified. Please provide any published studies or raw data supporting your position.

Confidential Business Information (CBI) should not be submitted through [www.regulations.gov](https://www.regulations.gov/).

Please work with the person listed in the **FOR FURTHER INFORMATION CONTACT** section if submitting any information containing CBI.

## II. Background

Subsection (i) of the American Innovation and Manufacturing Act of 2020 (AIM Act or Act),<sup>1</sup> entitled “Technology Transitions,” provides that a person may petition the Administrator to promulgate a rule for the restriction on use of a regulated substance<sup>2</sup> in a sector or subsector. Once EPA receives a petition under this subsection, the AIM Act directs the Agency to make petitions publicly available within 30 days of receipt, and to grant or deny the petition within 180 days of receipt.

On April 13, 2021, the Agency received five petitions under subsection (i) of the AIM Act. We have established the docket to this notice to make these petitions publicly available, and to post letters of support and other submitted material for public accessibility. Table 1 below lists the petitions received by EPA on April 13, 2021, and each petition’s docket document ID number. Going forward, EPA intends to also use this docket to post petitions and other relevant information submitted under subsection (i) of the AIM Act.

Table 1 – List of Petitioners and Petition Docket ID Number

Petitioner	Docket ID Number
Association of Home Appliance Manufacturers (AHAM)	EPA-HQ-OAR-2021-0289-0005
Environmental Investigation Agency (EIA)	EPA-HQ-OAR-2021-0289-0006
Natural Resources Defense Council (NRDC), Colorado Department of Public Health & Environment (CDPHE), and Institute for Governance & Sustainable Development (IGSD)	EPA-HQ-OAR-2021-0289-0007
Air Conditioning, Heating, and Refrigeration Institute (AHRI)	EPA-HQ-OAR-2021-0289-0011

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<sup>1</sup> The AIM Act was enacted as section 103 in Division S, Innovation for the Environment, of the Consolidated Appropriations Act, 2021 (Pub. L. 116-260).

<sup>2</sup> The Act lists 18 saturated hydrofluorocarbons (HFCs), and by reference their isomers not so listed, that are covered by the statute’s provisions, referred to as “regulated substances” under the Act. For the statutory list of regulated substances, refer to subsection (c)(1) of the AIM Act.

Although not required under the statute, EPA welcomes additional data and relevant material to aid in its evaluation of petitions, based on the factors identified in the next section of this notice of data availability (NODA) and specified in subsection (i) of the AIM Act.

Stakeholders should note that EPA is not soliciting information on any topic other than the posted petitions under subsection (i) through this notice. Public submissions that pertain to issues beyond the scope of this NODA will not be considered.

### **III. What information does EPA consider when making a determination on a petition?**

Subsection (i) of the AIM Act identifies certain factors for the Agency to consider when making a determination to grant or deny a petition. Specifically, subsection (i)(4) of the Act requires EPA to factor in, to the extent practicable:

- (1) the best available data;
- (2) the availability of substitutes for use of the regulated substance that is the subject of the petition, in a sector or subsector, taking into account technological achievability, commercial demands, affordability for residential and small business consumers, safety, consumer costs, building codes, appliance efficiency standards, contractor training costs, and other relevant factors, including the quantities of regulated substances available from reclaiming, prior production, or prior import;
- (3) overall economic costs and environmental impacts, as compared to historical trends; and
- (4) the remaining phase-down period for regulated substances under the final rule issued under subsection (e)(3) of the AIM Act, if applicable.

EPA invites relevant data related to the factors listed above for the petitions posted in the docket<sup>3</sup>. Any information submitted in response to this NODA should include the name of the petitioner(s) and the petition document ID number.

Subsequent petitions received by the Agency under subsection (i) will also be posted in this docket within 30 days of receipt, as well as on the Agency's website at [www.epa.gov/climate-hfcs-reduction/petitions-under-aim-act](http://www.epa.gov/climate-hfcs-reduction/petitions-under-aim-act). Interested entities may sign up to receive notification when new petitions are posted by following the instructions at this website. EPA invites relevant information regarding those petitions from the public to be submitted to the docket by the deadline provided on the website.

#### **IV. What happens after EPA makes a determination on a petition?**

Where the Agency grants a petition submitted under subsection (i) of the AIM Act, the statute requires EPA to promulgate a final rule not later than two years from the date the Agency grants the petition. Per subsection (i)(1) of the AIM Act, EPA may issue rules that “restrict, fully, partially, or on a graduated schedule,” the use of a regulated substance in the sector or subsector in which the regulated substance is used. The Act establishes that no rule developed under subsection (i) may take effect earlier than one year after the rule promulgation date. In addition, prior to issuing a proposed rule under subsection (i), EPA must consider negotiating with stakeholders in the sector or subsector in accordance with negotiated rulemaking procedures.<sup>4</sup> If the Agency decides not to undergo a negotiated rulemaking, the AIM Act requires the Agency to publish an explanation of its decision not to use that procedure.

For petitions which have been denied, the Agency will publish in the Federal Register an explanation of the denial.

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<sup>3</sup> Subsection (i)(5) of the AIM Act further states that, in carrying out subsection (i), the Agency shall “evaluate substitutes for regulated substances in a sector or subsector, taking into account technological achievability, commercial demands, safety, overall economic costs and environmental impacts, and other relevant factors.”

<sup>4</sup> The negotiated rulemaking procedure is provided under subchapter III of chapter 5 of title 5, United States Code (commonly known as the “Negotiated Rulemaking Act of 1990”).

**Cynthia A. Newberg,**

*Director, Stratospheric Protection Division.*

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